

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: PARAGARD PRODUCTS
LIABILITY LITIGATION

: MDL DOCKET NO. 2974

:

:

This document relates to:

: 1:20-md-02974-LMM

:

ALEXANDRIA KERSMARKI

:

:

: Civil Action No.: _____

:

VS.

:

TEVA PHARMACEUTICALS USA, INC.;
TEVA WOMEN'S HEALTH, LLC; TEVA
BRANDED PHARMACEUTICAL PRODUCTS
R&D, INC.; THE COOPER COMPANIES,
INC.; COOPERSURGICAL, INC.

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SHORT FORM COMPLAINT

Come(s) now the Plaintiff(s) named below, and for her/their Complaint against the Defendant(s) named below, incorporate(s) the Second Amended Master Personal Injury Complaint (Doc. No. 79), in MDL No. 2974 by reference.

Plaintiff(s) further plead(s) as follows:

1. Name of Plaintiff placed with Paragard: Alexandria Kersmarki

2. Name of Plaintiff's Spouse (if a party to the case): N/A

3. If case is brought in a representative capacity, Name of Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):
N/A

4. State of Residence of each Plaintiff (including any Plaintiff in a representative capacity) at time of filing of Plaintiff's original complaint: Virginia

5. State of Residence of each Plaintiff at the time of Paragard placement: Virginia

6. State of Residence of each Plaintiff at the time of Paragard removal: Virginia

7. District Court and Division in which personal jurisdiction and venue would be proper:
Eastern District of Virginia - Newport News Division

8. Defendants. (Check one or more of the following five (5) Defendants against whom Plaintiff's Complaint is made. The following five (5) Defendants are the only defendants against whom a Short Form Complaint may be filed. No other entity may be added as a defendant in a Short Form Complaint.):

- ☒ A. Teva Pharmaceuticals USA, Inc.
- ☒ B. Teva Women's Health, LLC
- ☒ C. Teva Branded Pharmaceutical Products R&D, Inc.
- ☒ D. The Cooper Companies, Inc.
- ☒ E. CooperSurgical, Inc.

9. Basis of Jurisdiction

- ☒ Diversity of Citizenship ([28 U.S.C. § 1332\(a\)](#))
- ☐ Other (if Other, identify below):
-

10.

Date(s) Plaintiff had Paragard placed (DD/MM/YYYY)	Placing Physician(s) or other Health Care Provider (include City and State)	Date Plaintiff's Paragard was Removed (DD/MM/YYYY)* *If multiple removal(s) or attempted removal procedures, list date of each separately.	Removal Physician(s) or other Health Care Provider (include City and State)** **If multiple removal(s) or attempted removal procedures, list information separately.
4/13/2015	Tidewater Physicians White Marsh, VA	11/14/2022	Tidewater Physicians White Marsh, VA
		12/12/2022	Mary Immaculate Ambulatory Surgery Center Newport News, VA

11. Plaintiff alleges breakage (other than thread or string breakage) of her Paragard upon removal.



Yes



No

12. Brief statement of injury(ies) Plaintiff is claiming:

One arm of the IUD broke off during the initial removal attempt and remained inbedded. This required a subsequent hysteroscopy, dilation and

currettage to attempt to remove the remaining poriton. However, it was unable to be located during this procedure and likely remains inside.

Plaintiff reserves her right to allege additional injuries and complications specific to her.

13. Product Identification:

- a. Lot Number of Paragard placed in Plaintiff (if now known):

Unknown

- b. Did you obtain your Paragard from anyone other than the HealthCare Provider who placed your Paragard:



Yes



No

14. Counts in the Master Complaint brought by Plaintiff(s):



Count I – Strict Liability / Design Defect



Count II – Strict Liability / Failure to Warn



Count III – Strict Liability / Manufacturing Defect



Count IV – Negligence



Count V – Negligence / Design and Manufacturing Defect



Count VI – Negligence / Failure to Warn

- ☒ Count IX – Negligent Misrepresentation
 - ☒ Count X – Breach of Express Warranty
 - ☒ Count XI – Breach of Implied Warranty
 - ☒ Count XII – Violation of Consumer Protection Laws
 - ☒ Count XIII – Gross Negligence
 - ☒ Count XIV – Unjust Enrichment
 - ☒ Count XV – Punitive Damages
 - ☐ Count XVI – Loss of Consortium
 - ☐ Other Count(s) (Please state factual and legal basis for other claims not included in the Master Complaint below):
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15. “Tolling/Fraudulent Concealment” allegations:

a. Is Plaintiff alleging “Tolling/Fraudulent Concealment”?

☒ Yes

☐ No

b. If Plaintiff is alleging “tolling/fraudulent concealment” beyond the facts alleged in the Master Complaint, please state the facts and legal basis applicable to the Plaintiff in support of those allegations below:

The nature of Plaintiff's injuries and damages and their relation to the Plaintiff's ParaGard IUD and Defendants'

wrongful conduct was not discovered and could not have been discovered, until a date within the applicable statute of limitations

16. Count VII (Fraud & Deceit) and Count VIII (Fraud by Omission) allegations:

a. Is Plaintiff bringing a claim under Count VII (Fraud & Deceit), Count VIII (Fraud by Omission), and/or any other claim for fraud or misrepresentation?



Yes



No

b. If Yes, the following information must be provided (in accordance with Federal Rule of Civil Procedure 8 and/or 9, and/or with pleading requirements applicable to Plaintiff's state law claims):

i. The alleged statement(s) of material fact that Plaintiff alleges was false: Paragard was safe for use as a means of long term birth control and was safe or

safer than other products on the market. Failure to disclose the product is prone to break during removal.

ii. Who allegedly made the statement: Defendants through their employees
(including sales representatives), marketing materials, and other communications.

iii. To whom the statement was allegedly made: Plaintiff and her
healthcare provider.

iv. The date(s) on which the statement was allegedly made:
Various dates since approval by the FDA in 1984. Both prior to and after Plaintiff's implant.

17. If Plaintiff is bringing any claim for manufacturing defect and alleging facts beyond those contained in the Master Complaint, the following information must be provided:

a. What does Plaintiff allege is the manufacturing defect in her Paragard? _____

18. Plaintiff's demand for the relief sought if different than what is alleged in the Master Complaint: _____

19. Jury Demand:



Jury Trial is demanded as to all counts



Jury Trial is NOT demanded as to any count

s/ Christopher Oxx

Attorney(s) for Plaintiff

Address, phone number, email address and Bar information:

Christopher Oxx (NY Bar #5208590)

6 Harbor Park Drive

Port Washington, NY 11050

oxx@yourlawyer.com